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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,448	04/12/2001	Howard Letovsky	30554-05700	5265

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EXAMINER

CHERUBIN, YVESTE GILBERTE

ART UNIT

PAPER NUMBER

3713

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DATE MAILED: 08/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/833,448	LETOVSKY ET AL.
Examiner	Art Unit	
Yveste G. Cherubin	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 02 June 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-41 is/are pending in the application.

4a) Of the above claim(s) 35-41 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-34 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

1. This action is in response to the communication of the application No. 09/833,448 filed on June 2, 2003.

***Election/Restrictions***

2. Applicant's election of Group I, namely claims 1-34, in Paper No. 4, is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 recites the limitation "the proxy" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 23 recites the limitation "the proxy" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claims 26-27 recite "upon detected bandwidth". There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-2, 5, 7-14, 34 are rejected under 35 U.S.C. 102(a) as being anticipated by Khosla (US Patent 6,080,063).

As per claims 1-2, 5, 7-14, 34 Khosla discloses a game play system allowing remote players to participate in a concurrent simulation of a live event as the live event (100) is occurring. The live event (100) can be any type of competitive or participatory event in which remote participants would be interested in participating in. This includes automobile racing, sailboat racing, etc. Other types of participatory activities such as gambling, lotteries and board games also qualify as live events, 3:52-58. To carry out his invention, Khosla provides a collection of sensors (110, see fig 1 and 2 for the different types of sensors) at various locations in a live event (100) to gather data to be used in remote simulations of live event. These sensors (110) connect to a preprocessor (120), which assembles the data collected from sensors in preparation for transmission across a network (130). Network (130) connects preprocessor (120) to a collection of remote computer systems (140, 142, 144), which contain separate live event simulations. Players (160, 162, 164) interact with live event simulation on remote computer systems (140, 142, 144). At a race, sensors, periodically record the position of real automobiles participating in the race. The position information is relayed to the

computer system where it is used to construct a display of the automobile race showing the real vehicles in proper locations. Players interact with user interface to send commands to control a simulated vehicle in the display. By issuing commands through the user interface, remote participant navigates the simulated vehicle in and out of the real vehicles in the display. In reference to fig 1, preprocessor performs a number of operations of the data gathered through sensors (110) including extraction of position information from a video signal through image recognition software and compression of data collected through sensors in preparation for transport across network to remote computer systems (140, 142, 144). In a specific embodiment, preprocessor provides sophisticated compression and filtering functions, 4:44-45.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khosla in view of Walker (US Patent No. 6,361,437).

As per claims 15, Khosla discloses the claimed invention as substantially as shown above. Khosla is silent on using the remotely located computer to communicate with the wagering device further comprising communicating through a gaming server. Walker discloses a remote system comprising a user device (5) communicating with a

wagering device (2) through a gaming server (4). It would have been obvious to one of skill in the art at the time the invention was made to include the system configuration as taught by Walker into the Khosla type system in order ensure the smooth operation of the system. As per claim 6, Walker discloses using time stamping unit for security purposes, 3:45-47, 4:15-22.

Claims 3, 16-20, 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khosla in view of Lvov (US Patent No. 6,117,011).

As per claims 3, 16, 32-33 Khosla discloses the claimed invention as substantially as shown above. Khosla is silent on accessing personal financial information through the remotely located computer. Lvov teaches a network system capable of settling financial information using the electronic communication, 4:36-44. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the electronic financial communication as taught by Lvov into the Khosla type system in order to allow betting of real money through player's bank accounts which guarantees confidentiality of the players wins, accuracy and verifiability of settlements. As per claim 17, Lvov allows players to use their bank or gaming account to wager, 10:40-43. As per claims 18, 19, Lvov teaches the financial communication between a player's gaming account and a player's deposit account, such as the transfer of gains or losses, 10:14-25, 62-64, 11:17-23. As per claim 20, Lvov teaches logging all gaming events and enabling players to check the validity of all gaming actions to prevent possibility of fraud, 11: 36-38.

Claims 21-23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Khosla in view of Graves (US Patent No. 5,380,067).

As per claim 22, Khosla discloses the claimed invention as substantially as shown above. Khosla is silent on using a human proxy. Graves teaches a system where a proxy player assists a remote player/client at a gaming site, 2:37-39. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a proxy player as taught by Graves in the Khosla's system in order to participate in a game in order to facilitate game play to players that are incapable of attending the gaming site. As per claim, 21, 23, Graves teaches a system comprising entering commands into the device using proxy, 2:39-59

Claims 4, 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khosla in view of Ogus (US Patent No. 6,587,875).

As per claims 24-25, 27, Khosla disclose the claimed invention as substantially as shown above. Khosla is silent on detecting player's connection bandwidth and transmission speed. Ogus teaches a network protocol and associated method for optimizing use of available bandwidth. Ogus teaches automatic detection of player's connection bandwidth, and transmission speed, see abstract. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the automatic detection as taught by Ogus into the Khosla type system in order to provide an efficient system. As per claim 26, Ogus further teaches optimizing

transmitted information based upon detected bandwidth and transmission speed. As per claim 4, Ogus teaches a system comprising routing server connecting various networks, 8:51-64.

Claims 28-31 rejected under 35 U.S.C. 103(a) as being unpatentable over Khosla in view of Vuong (US Patent No. 5,762,552).

As per claim 28-29, 31, Khosla disclose the claimed invention as substantially as shown above. Khosla fails to disclose polling wagering devices for availability. Vuong teaches an interactive real-time network gaming system allowing remote players to participate, 8:14-19,9:58. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the above feature as taught by Vuong into the Khosla type system in order to facilitate the device selection by the players. As per claim 30, Vuong further teaches a network manager capable of tracking the current availability of active gaming tables and Vuong teaches using visual representations to select wagering device, 10:30-47.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - a. US Patent No. 4,467,424 to Hedges et al. which teaches remote gaming system.
  - b. US Patent No. 5,333,868 to Goldfarb which teaches method of playing a game of chance at locations remote from the game site.

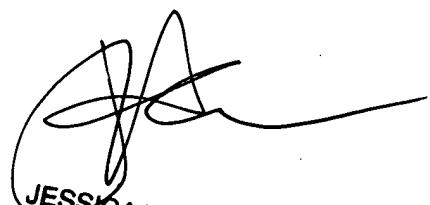
- c. US Patent No. 5,351,970 to Fioretti which teaches methods and apparatus for playing bingo over a wide geographic area.
- d. US Patent No. 5,586,937 to Menashe which teaches interactive computerized gaming system with remote terminals.
- e. US Patent No. 6,001,016 to Walker et al. which teaches remote gaming device.
- f. US Patent No. 6,254,480 to Zach which teaches wagering system with improved communication between host computers and remote terminals.
- g. US Patent No. 5,954,582 to Zach which teaches wagering system with improved communication between host computers and remote terminals.
- h. US Patent No. 6,475,086 to Zach which teaches wagering system with improved communication between host computers and remote terminals.
- i. US Patent No. 6,024,641 to Sarno which teaches method apparatus and system for lottery gaming .
- j. US Patent No. 5,800,268 to Molnick which teaches method of participating in a live casino game from a remote location.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yveste G. Cherubin whose telephone number is (703) 306-3027. The examiner can normally be reached on 9:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, T. Walberg can be reached on (703) 308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2159.

August 22, 2003

ygc



JESSICA HARRISON  
PRIMARY EXAMINER